

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

PRESENT:	Supervisor	Teresa Dean
	Council	Andy Gillette
		Mike Smith
		Edward Fairbrother
	Attorney	Frederick Ahrens Jr.
	Town Clerk	Linda Cross

TOWN BOARD

Supervisor Dean called the Town Board meeting to order at 7:00 p.m. and requested those present to participate in the Pledge of Allegiance.

CONCERNS OF THE PEOPLE

Tom Clark, 610 County Route 64, asked the Town Board if they have plans in the future since Black Gold is only open until November 19th. Supervisor Dean replied we are looking into some options for next year, but we have no resolution for this year.

Jane King, 15 Kelly Drive, asked the Town Board to check with Code regarding the large banner size of the signs at the Dandy Mini Mart on County Route 64.

MINUTES

Councilperson Fairbrother made a motion, seconded by Councilperson Smith to approve the minutes of September 28, 2011 as presented. All in favor, motion carried.

Councilperson Smith made a motion, seconded by Councilperson Gillette to approve the minutes of October 3, 2011 as presented. All in favor, motion carried.

Councilperson Gillette made a motion, seconded by Councilperson Fairbrother to approve the minutes of October 5, 2011 as presented. All in favor, motion carried.

Councilperson Fairbrother made a motion, seconded by Councilperson Smith to approve the minutes of October 12, 2011 as presented. All in favor, motion carried.

Councilperson Smith made a motion, seconded by Councilperson Gillette to approve the minutes of October 14, 2011 as presented. All in favor, motion carried.

OLD BUSINESS

RESOLUTION NO. 214-11
SPECIAL USE PERMIT EXTENSION BY OTIS EASTERN SERVICE, INC.

Resolution by: Fairbrother
Seconded by: Smith

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 214-11, SPECIAL USE PERMIT REQUEST BY OTIS EASTERN SERVICE, INC. continued

WHEREAS the Town Board approved Resolution No. 130-11, dated April 27, 2011 which approved the application from Otis Eastern Service, Inc. for a Special Use Permit approval to permit a temporary field office for office/van storage, material storage and parking for employees and the company located on lands owned by Glenn and Diane Farr, Tax Parcel 66.02-2-26.211 and Big Flats Development Group, Inc., Tax Parcel 66.02-2-31.11, and

WHEREAS a letter was received from Charles Howland of Otis Eastern Service, Inc., dated October 11, 2011, stating that due to the lack of timely delivery on permits from various regulating and governing agencies, abnormal rain fall throughout the summer has impeded the production and the critical path goals, and delays have forced them into winter restoration; therefore, they are requesting a 9 month extension, and

WHEREAS office / storage facility is a use permitted under site plan approval and upon grant of a special permit by the Town Board, and

WHEREAS a public hearing was duly held on April 27, 2011 whereas all interested parties were duly heard, and

WHEREAS the Town Board of the Town of Big Flats determined pursuant to the provisions of SEQR 6 NYCRR Part 617, that the proposed Unlisted Action will not have a significant effect on the environment and that preparation of an Environmental Impact Statement will not be required, thereby issue a Negative Declaration, now

BE IT THEREFORE RESOLVED the Town Board approves the extension of the special use permit for Otis Eastern Service, Inc. with the following conditions:

- Hours of Operation shall be limited to hours within the times of 6:00 am EST and 9:00 pm EST, Monday through Saturday;
- The dates of the temporary Special Use Permit shall be May 1, 2011-October 31, 2011;
- Operational lighting shall comply with the Town of Big Flats Municipal Code;
- All signage shall comply with Town of Big Flats Municipal Code Chapter 17.52;
- Applicant shall confine to the site layout as depicted on the site plan submitted by Charles Howland, Superintendent of Otis Eastern Service, Inc.;
- Applicant shall utilize I-86 and Daniel Zenker Drive as the main egress/ingress for said property;
- Applicant shall contact and provide the Town of Big Flats with a copy of any application for additional driveway permits issued by Chemung County Department of Public Works;
- The use of Palmer Road North to egress/ingress this property does not in anyway depict that this is or will be a Town road;
- Truck routes provided to the Commissioner of Public Works and a surety Bond be approved by Attorney for the Town.

FURTHER RESOLVED the aforementioned conditions shall remain in full force until July 31, 2012.

CARRIED: AYES: Smith, Fairbrother, Dean

NAYS: Gillette

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RESOLUTION NO. 215-11
MILEAGE ALLOWANCE AMENDED

Resolution by: Smith
Seconded by: Gillette

RESOLVE the Town Board to amend the set mileage to \$0.555 per mile for Town Officials and employees when using their personal vehicles for official Town business, when authorized by the Town Board.

CARRIED: AYES: Smith, Gillette, Fairbrother, Dean
NAYS: None

NEW BUSINESS

RESOLUTION NO.216-11
ABSTRACT OF AUDITED VOUCHERS APPROVED

Resolution by: Gillette
Seconded by: Fairbrother

RESOLVE that the Town of Big Flats approve the Abstract of Audited Vouchers for October 2011, vouchers 4000156-4000246 and order the bills paid, when in funds, for the following:

GENERAL FUND	\$194,566.75
HIGHWAY FUND	\$ 33,448.57
SEWER DISTRICT	\$ 266.92
WATER DISTRICT #1	\$285,195.15
WATER DISTRICT #2	\$ 8,801.65
WATER DISTRICT #3	\$ 1,346.96
WATER DISTRICT #4	\$ 613.15
LIGHTING DISTRICT	\$ 560.57
TRUST & AGENCY	\$ 453.93

CARRIED: AYES: Smith, Gillette, Fairbrother, Dean
NAYS: None

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 217-11
RESIGNATION OF G. JAMES PIAZZA FROM THE BOARD OF ASSESSMENT REVIEW
APROVED

Resolution by: Fairbrother
Seconded by: Smith

WHEREAS the Town Board received a letter of resignation from G. James Piazza from the Board of Assessment Review, and

WHEREAS Mr. Piazza has been a valuable member of the Board of Assessment Review since 1994, and

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such, no further action is necessary regarding the same, now

BE IT THERFORE RESOLVED the Town Board accepts the resignation of G. James Piazza as a member of the Board of Assessment Review effective October 2, 2011, and

FURTHER RESOLVED the Town Supervisor is hereby authorized to send a letter of appreciation to Mr. Piazza.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean
NAYS: None

RESOLUTION NO. 218-11
BOARD OF ASSESSMENT REVIEW APPOINTMENT APPROVED

Resolution by: Smith
Seconded by: Gillette

WHEREAS the Town Board received a letter and accepted the resignation of G. James Piazza from the Board of Assessment Review, and

WHEREAS discussions had been made with Leonard Kaner of 7 Miller Street, Big Flats, inquiring whether or not he was interested in fulfilling the unexpired term for the Board of Assessment Review, and

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such, no further action is necessary regarding the same, now

BE IT THERFORE RESOLVED the Town Board appoints Leonard Kaner, 7 Miller Street, Big Flats, to the Board of Assessment Review with a term ending December 31, 2013, and

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RESOLUTION NO. 218-11, BOARD OF ASSESSMENT REVIEW APPOINTMENT
APPROVED continued

FURTHER RESOLVED the Town Supervisor is hereby authorized to complete and sign the appropriate Report of Personnel Change and Extended Payroll Certificate (RPC) for this hiring.

CARRIED: AYES: Smith, Fairbrother, Gillette, Dean
NAYS: None

RESOLUTION NO. 219-11
PURCHASE OF A JUDICIAL ROBE AND REIMBURSEMENT FOR THE MANDATED
TRAINING FOR ALL NEWLY ELECTED JUSTICES APPROVED

Resolution by: Gillette
Seconded by: Fairbrother

WHEREAS Judge Charles Wood chose not to run for re-election and Lisa Hess is the sole candidate for the Town of Big Flats Justice, and

WHEREAS the office of court administration requires all new judges to attend mandatory training prior to taking office, and

WHEREAS the training is free of charge; however, will require hotel, mileage and meal expenses, and

WHEREAS it is in the best interest of the Town to approve expenditures for Ms. Hess to complete her training prior to taking office January 1, 2012, and

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such, no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the reimbursement to Lisa Hess for the expenditures involved in the mandatory training for Justice, and

FURTHER RESOLVED the Town Board authorizes the purchase of the judicial robe for Ms. Hess.

CARRIED: AYES: Smith, Fairbrother, Gillette, Dean
NAYS: None

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 220-11
COUNTYWIDE STREAM MAINTENANCE PROGRAM APPROVED

Resolution by: Fairbrother

Seconded by: Smith

WHEREAS Mark Watts, District Manager for Chemung County Soil and Water Conservation District (SWCD), provided a presentation and draft agreement for municipalities regarding a countywide stream maintenance program, and

WHEREAS the proposed agreement is a five (5) year period beginning January 1st, 2012 and ending December 31st, 2016 unless all agree to extend the agreement after 2016 and involves Chemung County; Chemung County SWCD; Chemung County Department of Public Works (DPW); Towns of Ashland; Baldwin; Big Flats; Catlin; Chemung; Elmira; Erin; Horseheads; Southport; Van Etten; and Veteran, and

WHEREAS the proposed program involves Chemung County providing the funding not to exceed \$400,000.00 for equipment and the Town and County DPW agrees to an equal partner to assist in maintaining streams in Chemung County and allocate a dollar amount per year based on population to the nearest hundredth; assist SWCD with prioritizing projects within the Towns; provide fuel to equipment when working in respective Towns; provide materials for jobs requested by Town and for Town (ex. Culvert installation or rock rip rap placement); and assist in obtaining easements from landowners for proposed work, and

WHEREAS Chemung County DPW agrees to assist with maintenance of equipment; assist with transporting of equipment; and provide \$20,000.00 to the maintenance fund or provide operator for equipment provide fuel for County work, as well as materials for County jobs, and

WHEREAS Chemung County SWCD agrees to bill, collect and establish an account for the Chemung County Stream Program the money will be utilized to cover insurance, maintenance, and or for replacement of equipment; house the equipment; coordinate work in consultation with local highway departments; work with Towns and County to provide operator for equipment; obtain permits from DEC/Army Corps for work in streams; provide each municipality with an annual budget on what was completed and how much was spent, and

WHEREAS after five (5) years if it decided it is not working, sell the equipment with the proceeds of sale going back to the County and the maintenance fund will be reimbursed to the participating Towns based on their contribution minus expenses, now

WHEREAS for environmental purposes, administration is a Type II action in accordance with SEQRA 6NYCRR, Part 617.5 (c) (20) and as such, no further action is necessary regarding the same, now

BE IT THEREFORE RESOLVED the Town Board authorizes the Town Supervisor to sign the Inter-Municipal Agreement for the Development of a Countywide Stream Maintenance Program contingent upon the review of the Attorney for the Town.

CARRIED: AYES: Smith, Fairbrother, Gillette, Dean

NAYS: None

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 221-11
SPECIAL MEETING APPROVED

Resolution by: Smith
Seconded by: Gillette

RESOLVE the Town Board sets a Special Town Board meeting for November 9, 2011 at 4:30 p.m. for the purpose holding a public hearing on the proposed 2012 Town Budget.

CARRIED: AYES: Smith, Fairbrother, Gillette, Dean
NAYS: None

RESOLUTION NO. 222-11
LOCAL LAW TENTATIVELY NO. 7 FOR THE YEAR 2011 TO OVERRIDE THE TAX
LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-C

Resolution by: Fairbrother
Seconded by: Smith

WHEREAS the governor and legislature of the State of New York have enacted a tax levy limit of 2% increase over the preceding year levy, and

WHEREAS the budget of the Town of Big Flats is subject to audit by the Comptroller of the State of New York for compliance with the tax levy limit, and

WHEREAS definitive guidelines and rules as to how to calculate the 2% tax limit calculation are not in place and are subject to interpretation, and

WHEREAS under the above circumstances there could be inadvertent and unintentional non-compliance subjecting the Town to adverse consequences, and

WHEREAS to avoid the aforementioned adverse consequences it is prudent to adopt the within local law, now

BE IT THEREFORE RESOLVED there is hereby presented the Local Law tentatively No. 7 of the year 2011 for the Town of Big Flats as follows:

TOWN OF BIG FLATS
Local Law to override the tax levy limit established in General Municipal Law 3-c

Section 1. Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of Big Flats, County of Chemung pursuant to General Municipal Law § 3-c, and to allow the Town of Big Flats, County of Chemung to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 222-11, LOCAL LAW TENTATIVELY NO. 7 FOR THE YEAR 2011 TO OVERRIDE THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-C continued

by the town board for the fiscal year 2012 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override

The Town Board of the Town of Big Flats, County of Chemung is hereby authorized to adopt a budget for the fiscal year 2012 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.

FURTHER RESOLVED before said Local Law is adopted by the Town Board, a Public Hearing shall be held at the Special Town Board Meeting on November 9, 2011, at 4:32 P.M. or such other date and time that may be adjourned, at Town of Big Flats Town Hall, 476 Maple Street, Big Flats, New York 14814, and

FURTHER RESOLVED the Town Clerk shall cause a notice of said Public Hearing notice published in the official newspaper of the Town and shall cause such posting and publication to be completed at least five (5) days prior to the date heretofore set forth for the Public Hearing.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean
NAYS: None

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RESOLUTION NO. 223-11
FIRE PROTECTION DISTRICT NO. 1 PUBLIC HEARING APPROVED

Resolution by: Gillette
Seconded by: Fairbrother

WHEREAS there is Fire Protection District No. 1 in the Town of Big Flats, and

WHEREAS the Town must enter into an agreement for the purpose of providing fire and emergency response to said District, now

BE IT THEREFORE RESOLVED the Town Board sets a public hearing for November 09, 2011 at 4:40 p.m. for the purpose of allowing comments on the proposed Fire Protection District No. 1 agreement with Town & Country Fire Department.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean
NAYS: None

CORRESPONDENCE

Minutes/Big Flats Business Association. A copy of the meeting minutes, dated October 5, 2011, was received from the Big Flats Business Association Meeting.

Client Grant Alert/Laberge Group. A notification was received from Richard F. Laberge, P.E. President of Laberge Group, regarding a Grant Alert Consolidating funding application.

Liquor License/DC2 Enterprises LLC. A letter was received from Curtis DeClemte, Manager of the DC TOO Enterprises LLC, dated October 3, 2011, regarding the renewal of their Liquor License.

RESOLUTION NO. 224-11
SOUTHERN TIER CENTRAL REGIONAL PLANNING & DEVELOPMENT BOARD
FLOOD ASSISTANCE PROGRAM APPROVED

Resolution by: Fairbrother
Seconded by: Smith

WHEREAS grants are being received through the New York State Consolidated Funding Application (CFA) under Title 11 of the Environmental Protection Fund Local Waterfront Revitalization Program (EPF LWRP) from eligible municipalities, and

WHEREAS they are willing to accept a grant application for a Strategy for a Flood Resistant Southern Tier Central Region, and

WHEREAS the grant is for a 3-year span and requires a fifty percent match is required for the total project cost of approximately \$180,000, and

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 224-11, SOUTHERN TIER CENTRAL REGIONAL PLANNING & DEVELOPMENT BOARD FLOOD ASSISTANCE PROGRAM APPROVED continued

WHEREAS the fifty percent match will be provided by Southern Tier Central Regional Planning and Development board in the way of in-kind documentation and cash, and

WHEREAS the Southern Tier Central Regional Planning & Development Board has proposed a "Flood Program Proposal" which would provide technical assistance for implementing a variety of activities that reduce the personal and economic impacts of flooding in Chemung, Schuyler and Steuben counties, and

WHEREAS the program elements would include floodplain management; stream corridor management; flood mitigation; public education; Community Rating System (CRS) assistance; and advocate for improved policies, and

WHEREAS for environmental review purposes the Town Board finds this to be Type II administrative action pursuant to 6NYCRR 617.5(c)(19) and as such, no environmental review is required for a Type II action, now

BE IT THEREFORE RESOLVED the Town Board concurs with the grant application and has no object to being an applicant and partner on with the grant due to the strong personal interest in flooding issues and goal to qualifying for flood insurance discounts through the Community Rating System.

CARRIED: AYES: Fairbrother, Smith, Gillette, Dean
NAYS: Dean

EXECUTIVE SESSION: Supervisor Dean made a motion, seconded by Councilperson Fairbrother, to enter into Executive Session to discuss particular personnel matter at 7:17 p.m. All in favor, motion carried.

Supervisor Dean reconvened the Town Board Meeting at 7:45 p.m.

RESOLUTION NO. 225-11
LOCAL LAW TENTATIVELY NO. 6 FOR THE YEAR 2011, ESTABLISHING THE
ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND
DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF
OFFICE FOR THE FISCAL YEAR 2012

Resolution by: Fairbrother
Seconded by: Smith

WHEREAS pursuant to Municipal Home Law, Section 24, the Town must adopt a Local Law subject to a referendum setting the salaries of all elected officials and those officials who have a fixed term of office, and

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 225-11, LOCAL LAW TENTATIVELY NO. 6 FOR THE YEAR 2011, ESTABLISHING THE ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2012 continued

WHEREAS the Town Board has reviewed the salaries of certain elected or appointed officials of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2012, which some individuals are presently serving mid-term, and

WHEREAS a Local Law Tentatively No. 6 for the Year 2011, establishing the annual salaries of such appointed officials for the Fiscal Year 2012, now

THEREFORE, BE IT RESOLVED there is hereby presented to each member of the Town Board Local Law Tentatively No. 6 for the Year 2011, establishing the annual salaries of certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2012, as follows:

**TOWN OF BIG FLATS
LOCAL LAW TENTATIVELY NO. 6 FOR THE YEAR 2011**

A LOCAL LAW establishing the annual salaries of certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office for the Fiscal Year 2012.

Be it enacted by the Town Board of the Town of Big Flats as follows:

SECTION 1: Except where inconsistent by operation of law due to prohibitions of increases of compensation during a fixed term of office for Town officers and employees as provided in Municipal Home Rule Law §24 be, and the same hereby is, applicable to officers and employees having a fixed term of office, whether elected or appointed, as are any and all resolutions of the Town of Big Flats Town Board relative to rights and entitlements of Town executive and management personnel.

SECTION 2: Effective with the first town payroll for the Town Fiscal Year 2012 the annual salaries of the certain elected or appointed officials and department heads of the Town of Big Flats who have a fixed term of office are hereby established for the Fiscal Year 2012 as follows, to wit:

<u>TITLE</u>	<u>2011 SALARY</u>	<u>2012 SALARY</u>
Town Supervisor	\$31,000	\$31,000
Town Council (4)	\$7,004 each	\$7,004 each
Town Justice (2)	\$19,096 each	\$19,478 each
Town Clerk	\$34,000	\$35,020
Tax Collector	\$7,224	\$7,224
Assessor	\$37,390	\$38,512
Commissioner of Public Works	\$84,011	\$84,011

MINUTES OF THE TOWN BOARD MEETING OF OCTOBER 26, 2011

RESOLUTION NO. 225-11, LOCAL LAW TENTATIVELY NO. 6 FOR THE YEAR 2011, ESTABLISHING THE ANNUAL SALARIES OF CERTAIN ELECTED OR APPOINTED OFFICIALS AND DEPARTMENT HEADS OF THE TOWN OF BIG FLATS WHO HAVE A FIXED TERM OF OFFICE FOR THE FISCAL YEAR 2012 continued

SECTION 3: Should any of the above positions become vacant and subsequently filled by one other than the present incumbent, the salary shall in that instance be set by the Town Board prior to filling said vacancy.

SECTION 4: This Local Law shall become effective, subject to a permissive referendum, forty-five (45) days after the date of its final adoption and on the date it is duly filed in the Office of the Secretary of State of the State of New York and in accordance with the provisions of the Municipal Home Rule Law of the State of New York..

FURTHER RESOLVED before said Local Law is adopted by the Town Board, a Public Hearing shall be held at the Special Town Board Meeting on November 9, 2011, at 4:30 P.M. or such other date and time that may be adjourned, at Town of Big Flats Town Hall, 476 Maple Street, Big Flats, New York 14814, and the Local Law is subject to a permissive referendum of the qualified electors of the Town of Big Flats by filing of a legal petition within forty-five (45) days after its final adoption, with the Clerk of the Town of Big Flats protesting such Local Law, and

FURTHER RESOLVED the Town Clerk shall cause a notice of said Public Hearing notice published in the official newspaper of the Town and shall cause such posting and publication to be completed at least five (5) days prior to the date heretofore set forth for the Public Hearing.

CARRIED: AYES: Smith, Fairbrother, Gillette, Dean
NAYS: None

Councilperson Fairbrother made a motion, seconded by Councilperson Smith to adjourn the Town Board meeting at 7:46 p.m. All in favor, motion carried.

Date approved: _____

Linda J. Cross
Town Clerk